

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 18, 2008
POSITION: Oppose

BILL NUMBER: AB 2762
AUTHOR: M. Eng

BILL SUMMARY: School Districts

This bill would establish reporting procedures for school personnel who become aware of an act of harassment, discrimination, or terrorist threat by a student. Specifically, the bill would require: (1) a school employee to report the incident to the principal; (2) a school principal to initiate an investigation of the report and to notify the school district superintendent; (3) a superintendent to investigate the report if the incident involves a principal; (4) a principal or superintendent to take prompt action to end these incidents and to advise the victim of any remedies available; (5) a principal to issue a report to the superintendent each semester summarizing all incidents during that semester; and (6) a school to notify the superintendent that law enforcement agencies have been notified of the incident.

If a school does not have reporting procedures to record incidents, this bill also would require a school to develop procedures by August 31, 2010.

FISCAL SUMMARY

This bill would likely create annual reimbursable state mandate costs of \$3.4 million Proposition 98 General Fund for school and district personnel to perform the reporting procedures. This cost estimate assumes each school in the state has one incident per year and assumes an average of 10 hours of staff time to complete the reporting, investigation, and notification procedures. Also, this cost estimate is based on a teacher hourly wage and benefit of \$43, multiplied by the number of public schools in the state, multiplied by the staff time to complete the procedures per incident (\$43/hour x 8,000 public schools x 10 hours/incident). Actual costs could be higher than this estimate because: (1) there could be more than one incident per year per school; (2) staff time could exceed 10 hours per incident; and (3) principal and superintendent hourly wage and benefit costs are typically higher than teacher wage and benefit costs.

Additionally, this bill would likely create one-time reimbursable state mandate costs of approximately \$344,000 Proposition 98 General Fund for schools to develop procedures to record incidents. This cost estimate assumes that ten percent of schools do not already have procedures similar to those proposed by the bill. Assuming it takes an employee ten hours to develop procedures at \$43 per hour, the one time cost would be \$334,000 (\$43/hour x 800 public schools x 10 hours/procedures).

COMMENTS

The Department of Finance is opposed to this bill for the following reasons:

- The bill would likely create reimbursable state mandate costs in the millions of dollars that would exacerbate the gap between General Fund revenues and expenditures.
- The breadth of existing law makes this bill unnecessary. First, multiple state statutes prohibit discrimination, harassment, and terrorist threats against students in various protected categories. Second, existing law requires school personnel to report incidents to local law enforcement authorities to ensure prompt investigation. Given the considerable costs and fiscal penalties associated with discrimination, harassment, and threat-related lawsuits, all schools have sufficient incentives to comply with state law without the state imposing new mandates.
- The bill would duplicate procedures already established by the State Board of Education (SBE). The SBE has promulgated various regulations to provide a complaint procedure at the local level and an appeal process to the state level in discrimination cases. The SBE regulations also require schools to adopt policies and procedures for investigating and resolving complaints.

Analyst/Principal (0362) R. Storm	Date	Program Budget Manager Jeannie Oropeza	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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M. Eng

June 18, 2008

AB 2762

The intent of the bill is to address concerns resulting from an eighth grader's murder, in which his sexual orientation is believed to have been a factor in his murder. By requiring school personnel to report to the principal or superintendent all known discrimination, harassment, and terrorist threats, the bill would charge the principal or superintendent with the responsibility of assessing, investigating, and resolving matters before they escalate further. However, existing state laws and regulations are in place to address this concern. Specifically, California Code of Regulations section 4621 requires each local educational agency (LEA) to "adopt policies and procedures for the investigation and resolution of complaints." Every LEA is required to have a policy against discrimination that applies to all the protected categories. Education Code section 231.5 specifically requires all LEAs to have a written policy on sexual harassment that is publicly disseminated to staff, parents and students. Further, under Education Code section 250, compliance with all the laws regarding equity and nondiscrimination is a condition of receiving any state funds. The State Department of Education is required to monitor compliance.

Education Code section 220 states that "no person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, color, mental or physical disability,"

Penal Code section 422.6 states that "No person, whether or not acting under color of law, shall by force or threat of force, willfully injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation,"

California Code of Regulations section 4910(k) protects from harassment or abuse any student whose "identity, appearance, or behavior" is different than the stereotypical characteristics of males or females in our society. That said, if the discrimination treatment or abuse is based on the perception that a student is inappropriate to their sex, it is unlawful gender-based discrimination and must be resolved by the LEA pursuant to its local dissemination policy and compliant procedure.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2008-2009	FC	2009-2010	FC	2010-2011	Code
	6110/Dept of Educ	LA	Yes	C	\$1,720	C	\$3,784	C	\$3,440